

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Cornelia Calderone, Chair, Joseph Sieber,
Vice Chairman, and Frank Serico, Member

From: Gerald Yarbrough, Executive Secretary
Board of Review

Subject: Minutes of the August 16, 2006
Board of Review Meeting

Date: August 22, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, August 16, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, August 23, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair
Mr. Sieber, Vice Chair
Mr. Serico, Member
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the August 9, 2006 meeting were approved, except that under New Business, item (c) 107, 697, the word in the third sentence is during, not doing.

3. Old Business

(a) 108,740

Mr. Serico presented this case that involved a claimant who had two part-time jobs. As of the date of claim, the number of hours the claimant worked with one employer were reduced. The Appeal Tribunal had held the claim filed as of January 1, 2006 invalid. The Board noted that the record was lacking. As a result, the Board voted to hold a hearing. Mr. Serico will conduct the hearing.

4. New Business

(a) 112,262

Ms. Futterman described this case that involved a claimant who was unable to perform the duties of his job and was held entitled to State Plan disability benefits. The claimant was subjected to an Independent Medical Examination (IME) on April 12, 2006, which indicated he was able to work. The Appeal Tribunal had held the claimant ineligible for State Plan disability benefits as of April 12, 2006. The Board noted that the claimant saw his treating physician subsequent to the IME, and the record was lacking regarding the claimant's specific job duties. As a result, the Board voted to remand the case for additional testimony. Ms. Futterman will prepare the remand.

(b) 114,613

As presented by Ms. Futterman, this case involved a claimant who left work as a result of working conditions. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the claimant had good cause attributable to the work for leaving. As a result, the Board voted to reverse the Appeal Tribunal. Ms. Futterman will prepare the decision.

(c) 112,261

As described by Ms. Abrunzo, this case involved a claimant who appealed determinations of the Deputy and Director which held him disqualified for benefits under N.J.S.A.43:21-5(a) and liable for refund. The Appeal Tribunal dismissed the claimant's appeal as it was not filed within the period allowed under N.J.S.A. 43:21-6(b)(1) and good cause had not been shown for late filing. The Board noted that additional testimony is needed regarding the timeliness of the appeal as well as the toll out of the voluntary leave disqualification. After discussion, the Board voted to remand the case for the additional testimony. Ms. Abrunzo will prepare the remand.

(d) 113,107

Ms. Abrunzo presented this case that involves a claimant's request for reconsideration by the Board. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a) and the Board affirmed the Appeal Tribunal. After discussion, the Board noted that additional testimony is needed from the employer's firsthand witnesses and voted to reopen and remand the case after notifying the interested parties. Ms. Abrunzo will prepare the notifications.

(e) 106,063

Mr. Maddow described this case that involved a claimant who was discharged for absenteeism. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A 43:21-5(b). After discussion, the Board voted to affirm the Appeal Tribunal.

(f) 112,818

As presented by Mr. Maddow, this case involved a claimant who was employed by multiple employers during the base year of the claim dated April 9, 2006. The claimant continued to work for one employer at the time that he filed his claim. The Appeal Tribunal held the claim filed as of April 9, 2006 valid, excluding the base weeks and base year wages from that employer. After discussion, the Board voted to affirm the Appeal Tribunal.

There being no further business to transact, a motion was made by Mr. Serico to adjourn the meeting. Mr. Sieber seconded the motion.

SUBMITTED FOR APPROVAL:

Gerald Yarbrough
Executive Secretary

GY:gs